



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

May 9, 2013

BY HAND

The Honorable Miriam Goldman Cedarbaum
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

**Re: United States v. Ahmed Abassi
13 Cr. 304 (MGC)**

Dear Judge Cedarbaum:

The Government respectfully submits this letter to provide the Court and defense counsel with a description of the discovery that the Government expects to produce pursuant to Rule 16 of the Federal Rules of Criminal Procedure, to propose a schedule for the production of that discovery, and to inform the Court and counsel of the possibility of a superseding indictment in the near future. The defendant is presently charged in an Indictment with two counts of making and attempting to make false statements with respect to a material fact in an application, affidavit, and other document required by the immigration laws and regulations prescribed thereunder, in order to facilitate an act of international terrorism, in violation of Title 18, United States Code, Sections 1546 and 2.

A. Background on the Case

Ahmed Abassi, a Tunisian citizen who previously resided in Canada, came to the attention of law enforcement in the course of a lengthy international investigation conducted by the Federal Bureau of Investigation's Joint Terrorism Task Force ("JTTF"). The investigation has revealed that the defendant radicalized Chiheb Esseghaier, who is currently incarcerated in Canada on terrorism charges, and that Esseghaier thereafter received overseas training and plotted to engage in terrorist activity in the West. In March 2013, the defendant traveled to the United States, where he remained until his arrest on April 22, 2013. While in the United States, the defendant (who was at all times surveilled by law enforcement agents) maintained regular contact with a Federal Bureau of Investigation undercover officer (the "UC") and Esseghaier. In the defendant's discussions with the UC and Esseghaier, which were recorded by the UC, the defendant discussed his desire to engage in terrorist acts against targets in the United States and

other countries, and his intention to provide support and funding to organizations engaged in terrorist activity, including the al Nusra Front,¹ and to recruit other individuals for terrorist plots. In particular, the defendant discussed with the UC a number of individuals known personally to the defendant and/or to the defendant's associates, whom the defendant described as like-minded and who, in the defendant's view, would be willing to engage in terrorist activity.

The defendant, Esseghaier, and the UC also spoke about Esseghaier's proposed terrorist plots.² Among other things, the defendant told the UC that while Esseghaier's plans were good, the time was not right. The defendant noted that he had suggested an alternative plot – contaminating the air or water with bacteria in order to kill up to 100,000 people³ – but that Esseghaier was dismissive of that plan. The defendant also proposed that they help Muslims fighting in Syria by sending money or weapons. He also stated that he wanted to remain in the United States, and that if he was living in the United States he would be willing to carry out terrorist operations in the United States, but that he would have to know more details regarding any proposed plot.

On or about April 12, 2013, the defendant and the UC discussed the defendant's efforts to recruit others for terrorist plots, and further discussed that the defendant might be able to obtain a work visa to remain in the United States, purportedly in order to work for the UC's U.S.-based company. In reality, the defendant made clear that his true purpose for obtaining immigration documents that would allow him to remain in the United States was to engage in "projects" relating to future terrorist activities, including recruitment. Thereafter, the defendant made false statements on two immigration forms, under penalty of perjury, and subsequently mailed those forms to U.S. Citizenship and Immigration Services for processing.

On April 22, 2013, the defendant was arrested at John F. Kennedy International Airport. Prior to his arrest, the defendant was asked if he would speak to law enforcement agents and answer questions, and was advised that he was free to leave. The defendant agreed to speak with the agents and made several materially false statements. Among other things, the defendant claimed to work for the UC's company and the defendant denied any knowledge of terrorist plots being planned by Esseghaier. The Government is considering superseding the indictment against the defendant to add a charge of making false statements to federal officials, in violation of Title 18, United States Code, Section 1001, among other possible charges.

¹ In December 2012, the Department of State amended the Foreign Terrorist Organization designation of al Qaeda in Iraq to include certain aliases for that organization, including the al Nusra Front. See <http://www.state.gov/r/pa/prs/ps/2012/12/201759.htm>.

² During a post-arrest *Mirandized* interview with law enforcement, the defendant, among other things, acknowledged that he may have radicalized Esseghaier and explained that he and Esseghaier discussed plots to poison a water system and to derail a passenger train.

³ No steps were taken to further the contamination plot that posed a danger to the public.

B. Anticipated Discovery

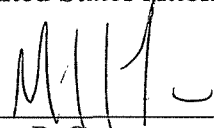
As suggested by the above summary of the case, the discovery is expected to be voluminous. It is expected to consist of, among other things, a substantial number of hours of recordings of conversations between the UC and the defendant and Esseghaier, the majority of which were not in English; draft summary and verbatim English translations of pertinent portions of those conversations; reports of and items relating to physical surveillance conducted of the defendant while in the United States; results of searches of certain electronic media of the defendant; immigration forms completed by the defendant containing materially false statements; reports of the defendant's non-custodial statements to Government officials at John F. Kennedy International Airport on March 18, 2013 and April 22, 2013; reports of the defendant's post-arrest statements to law enforcement personnel on April 22, 23, 24, 25, 26, and 29, 2013; and waiver and consent forms signed by the defendant.⁴

Consistent with Federal Rule of Criminal Procedure 16, the Government proposes the following discovery schedule for the Court's consideration: the Government will make an initial disclosure of unclassified discovery by June 9, 2013, with the production of additional and/or classified discovery to follow on a rolling basis thereafter.

Respectfully submitted,

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⁴ On April 22, subsequent to his arrest and brief public safety questioning pursuant to *New York v. Quarles*, 467 U.S. 649, 658 (1984), the defendant, without counsel, knowingly and voluntarily waived his *Miranda* rights and his right to a speedy presentment, and signed written waivers so stating. These rights were explained to the defendant with the assistance of an Arabic linguist. On April 23, 24, 25, 26, and 29, the defendant was re-advised of his *Miranda* rights and his right to a speedy presentment, and on each of those days, the defendant voluntarily waived those rights both orally and in writing. From his arrest on Monday, April 22 through Monday, April 29, the defendant was questioned on a near-daily basis by JTTF officers.